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Attorneys for Defendant
 WINCO FOODS, LLC

UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF CALIFORNIA

MANDI HOVATER, individually and on behalf of all similarly situated current and former employees of WINCO FOODS, LLC, and WINCO FOODS, INC., Plaintiffs, v. WINCO FOODS, LLC, WINCO FOODS, INC. and DOES 1 through 10, inclusive, Defendants.	Case No. 2-10-CV-00621-JAM-DAD STIPULATION AND ORDER RE: DISMISSAL OF PLAINTIFF'S CLASS CLAIM FOR FAILURE TO PAY VESTED VACATION PAY (FOURTH CAUSE OF ACTION -- VIOLATION OF LABOR CODE § 227.3) Judge: Hon. John A. Mendez Complaint filed: February 18, 2010 Trial Date: None Set
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WHEREAS Plaintiff Mandi Hovater's ("plaintiff") First Amended Complaint alleges that Defendant WinCo Foods, LLC ("defendant") violated California Labor Code § 227.3 by allegedly failing to pay certain WinCo employees vested vacation pay upon termination;

WHEREAS plaintiff's First Amended Complaint seeks to represent a class of "[a]ll current and former California employees of WINCO, not subject to a Working Conditions & Wages Agreement, who were not paid their accrued and unused vacation time pay upon separation of employment, for the period February 9, 2006 to the present ("Vacation Pay Class");

WHEREAS defendant has represented to plaintiff in verified discovery responses that the putative Vacation Pay Class consists of only seven individuals;

WHEREAS, based on defendant's verified discovery responses, plaintiff has agreed not to pursue class certification of the Vacation Pay Class due to a lack of a sufficient number of

putative class members, and therefore she will only pursue vacation pay claims individually on behalf of herself;

THEREFORE, IT IS HEREBY STIPULATED by and between plaintiff and defendant, through their attorneys of record, that plaintiff will not pursue certification of a Vacation Pay Class or any claim for vacation pay other than her own individual claim, and any references to the Vacation Pay Class are deemed to be stricken from the First Amended Complaint.

DATED: January ____, 2011

SEYFARTH SHAW LLP

By _____
Alfred L. Sanderson, Jr.
Brandon R. McKelvey
Jason D. Glenn
Attorneys for Defendant
WINCO FOODS, LLC

DATED: January ____, 2011

GRACE HOLLIS LLP

By _____
Graham S.P. Hollis
Marta Manus
Attorneys for Plaintiff
MANDI HOVATER

ORDER

Pursuant to the parties' stipulation, it is hereby ORDERED that all references to the Vacation Pay Class are stricken from plaintiff's First Amended Complaint.

IT IS SO ORDERED.

DATED: 1/25/2011

/s/ John A. Mendez
Hon. John A. Mendez